IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY THIRD DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 20470 of 2004

Between:

T. Anjanamma, W/o. T. Rajanna,
Kumarakalva Village, Chakrayapet Mandal, Kadapa District.

..... PETITIONER

AND

1 The Jt. Collector, Kadapa District, Kadapa -516 001.
2 The Revenue Divisional Officer, Kadapa, Kadapa District.
3 The Manal Revenaue Officer, Chakrayapet Mandal, Kadapa

District.
4 K. John Babu, S/o. K. Chinnappa,
R/o. Kummarikalva Harijanawada, Kummarikalva Post,
Chakrayapet Mandal, Kadapa District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue a writ, order or direction more particularly one in the nature of writ of Mandamus declaring the action of the petitioner in his Ref.No.C/362/2004, dt. 15.09.2004 even without calling for explanation for the charges and the same being tainted with extraneous considerations and inconsistent report and approach as illegal, unjust, arbitrary and against statutory provisions, extraneous and consequently set aside the orders passed by the 2nd respondent in his Ref. C/362/2004, dt. 15.09.2004.

Counsel for the Petitioner:MR.L.J.VEERA REDDY

Counsel for the Respondent Nos. 1 to 3: GP FOR REVENUE

The Court at the admission stage made the following :

ORDER:

The authorization of the petitioner was cancelled by the 2nd respondent through proceedings, dated 15.09.2004. Petitioner preferred an appeal against the same before the 1st respondent together with an application for grant of stay. Her grievance is that the 1st respondent has not passed any orders so far either in the stay petition or in the appeal.

Learned counsel for the petitioner had made several submissions touching on merits. He points out that the very first charge was vague, and the finding is virtually perverse, inasmuch as R.2 expected the petitioner to prove a negative fact. The second charge, according to him, is not so serious as to warrant cancellation.

Learned Government Pleader for Civil Supplies and the learned counsel for the 4th respondent, on the other hand, submit that the validity or otherwise of the order of cancellation needs to be considered at the appeal, and granting of any interim order, in relation to the same, is almost a rarity.

The 2nd respondent issued a Show-Cause Notice to the petitioner on 04.08.2004. Two charges were framed against her. The first charge is that she was selling the essential commodities at a higher price, and the second charge is that she failed to exhibit the stock-cum-price list board. If at all anything, it is only the first charge that can constitute a ground for cancellation, if proved to be correct. Petitioner flatly denied the same in her explanation. In such an event, the 2nd respondent ought to have taken any specific instances into account, before holding the charge against the petitioner as proved. On the other hand, he held the charge proved, on the ground that the petitioner failed to lead any evidence. Basically, such a course is

impermissible in law and no individual can be required to prove a negative fact. The second charge is not so serious as to warrant cancellation. These, however, are the aspects, which need to be taken into account by the appellate authority. The 1st respondent would be in a better position to appreciate the matter after perusal of the record. This Court is not inclined to grant any relief to the petitioner, at this stage. It is already three months since the appeal was filed.

Hence, the writ petition is disposed of directing the 1st respondent to pass appropriate orders in the appeal filed by the petitioner, within a period of four weeks from the date of receipt of a copy of this order. The 4th respondent is said to be functioning as temporary dealer. The same arrangement shall be continued, till the 1st respondent passes orders in the appeal. There shall be no order as costs.

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L.NARASIMHA REDDY, J

Dated : 23rd December, 2004

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To

1 The Joint Collector, Kadapa District, Kadapa -516 001.
2 The Revenue Divisional Officer, Kadapa, Kadapa District.
3 The Manal Revenaue Officer, Chakrayapet Mandal, Kadapa

District.
4 2 CCs to the Government Pleader for Revenue, High Court

Buildings, Hyderabad. (OUT)

5 2CD copies.